

1982 S.C. Op. Atty. Gen. 51 (S.C.A.G.), 1982 S.C. Op. Atty. Gen. No. 82-43, 1982 WL 155012

Office of the Attorney General

State of South Carolina

Opinion No. 82-43

June 21, 1982

***1 SUBJECT: Taxation, Income Tax Return.**

To constitute a tax return for individual income tax purposes, the return must set forth gross income, deductions and exemptions in such a manner as to allow the Commission to assess accurately the income tax due.

TO: Mr. A. B. Taylor
Director
Income Tax Division

QUESTION:

What constitutes a tax return for individual income tax purposes?

STATUTE:

South Carolina Code of Laws, 1976, § 12-7-1510.

DISCUSSION:

The requirement of an individual to make an income tax return and what the return is to include is set forth at § 12-7-1510, which provides:

‘Every resident having a gross income during the income year, taxable in this State, of eight hundred dollars and over, and every nonresident having taxable income within this State, * * * shall make a return stating specifically the items of gross income and the deductions and exemptions allowed by this chapter [7] and such other facts as the Commission may require for the purpose of making any computation required by this chapter. * * *.’

Thus, an individual income tax return must set forth the taxpayer's gross income, deductions, exemptions to which he is entitled, and these items must be declared with sufficient definiteness to permit the Commission to assess accurately the income tax due.

Although this question has not been before our courts, similar issues have been entertained by the federal courts. There is some uncertainty among federal circuit courts as to what constitutes an individual income tax return. They have generally recognized that the test for determining whether a document constitutes a valid return is whether it contains sufficient data from which I.R.S. can compute and assess a tax liability. See [United States v. Porth](#), 426 F. 2d 519 (10th Cir.) cert. denied, 400 U.S. 824, 91 S.Ct. 47, 27 L.Ed. 2d 53 (1970).

However, in a recent tax protestor case, the Seventh Circuit ruled there must be an honest and reasonable intent to supply the information required by the Internal Revenue Code (I.R.C.) The court reasoned that in the tax protestor cases, there is not an ‘honest and genuine’ attempt to meet the requirements of the Code (I.R.C.), and that ‘in our self-reporting tax system, the

government should not be forced to accept as a return document which plainly is not intended to give the required information, [‘United States v. Moore, 627 F. 2d 830, 835 \(1980\).](#)

CONCLUSION:

To constitute a tax return for individual income tax purposes, the return must set forth gross income, deductions and exemptions in such a manner as to allow the Commission to assess accurately the income tax due.

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